

AMENDMENT

It is agreed by and between the State of Vermont, Department of Vermont Health Access (hereafter called the "State") and Covisint (hereafter called the "Contractor") that the contract on the subject of providing a disease registry system, effective December 9, 2010, was assigned to Covisint Corporation ("Covisint") on January 1, 2013 and that the contract is hereby amended effective June 30, 2015, as follows:

1. By deleting Section 3 (Maximum Amount) in the standard Contract for Personal Services, and substituting in lieu thereof the following Section 3:

3. Maximum Amount. In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed **\$9,496,693**.

2. By deleting Section 4 (Contract Term) in the standard Contract for Personal Services, and substituting in lieu thereof the following Section 4:

4. Contract Term. The period of the Contractor's performance shall begin on December 9, 2010 and end on August 31, 2015.

3. By adding to, Attachment A (Specification of Work to be Performed) the following:

For the period of July 1, 2015 through August 31, 2015 the Contractor shall provide the following services:

Task 8: Hosting and User Account Support Services

Hosting

The Contractor shall host and provide a secure production environment in order to support a web based clinical data registry for data aggregation, reporting and program tracking and monitoring (the "System"). The Covisint DocSite Hosting Services shall include:

- web monitoring
- maintenance
- updating
- data and application backups

The Contractor will maintain separate environments for development and testing (Staging or STG), training (de-identified demo and de-identified demo reporting sites), and production (together, the "Environments"), to meet security and audit standards related to security and change control. The Contractor shall notify the State and System Users 24 hours prior to a known downtime for the production environment. The Contractor will make good faith efforts to schedule downtimes in consultation with the State.

Descriptions of the Environments are as follows:

STG environment

The Contractor shall provide the Staging, or STG, environment for new development, code updates, code fixes, updates to the data dictionary for testing prior to a production environment update, quality assurance efforts, including UAT, interface development and testing.

De-Identified Demo and De-Identified Demo Reporting Sites

The Contractor shall provide a de-identified demonstration, or “demo” site for training purposes. This site shall mirror the functionality of the production environment, but either all patient and provider data shall be de-identified or the Contractor shall use false data. The Contractor shall additionally provide a de-identified demonstration reporting site. This site shall mirror all reporting functionality available in the production environment and shall allow State users (“Users”) to run reports against de-identified patient and provider data in the production environment.

User Account Support Services

The Contractor shall assist Users with password resets and other minor support issues related to User accounts and access to the System.

Deliverables:

1. The Contractor shall provide copies of security plans, risk assessments, operational guides, policies and procedures pertaining to System operation, administration and maintenance, due within 30 calendar days of request by the State. The Contractor shall encrypt all at rest and in transit as a participant of the State Health Information Exchange (“HIE”).
2. The Contractor will maintain 99.5% uptime (maximum of 4 hours of downtime per month) for the production environment with the exception of the monthly planned maintenance and deployment window (which shall also not exceed 4 hours).
3. The Contractor shall maintain 95% uptime (maximum of 36 hours of downtime per month) for the demonstration site. The Contractor shall provide not less than 24 hours of advance written notice to the State of expected downtime and notice of unanticipated downtime periods as soon as practicable.
4. The Contractor shall assist Users with password resets and other minor support issues related to User accounts and access to the System.
5. The Contractor shall meet the foregoing service levels and the following response times.

The Contractor shall investigate and correct any Defects or deficiencies in the System (“Support Services”). **“Defect”** means any failure by the System or component thereof to conform in any material respect with applicable System Requirements. The State shall cause System Users to report all known Defects to the Contractor. Classification of Defects and their associated Support Service schedule follows:

	Acknowledgement*	Patch**	Fix***
<p>Level One:</p> <p>1. An Incident that severely impacts or has the potential to severely impact mission critical business operations or has high visibility to external customers. Incidents characterized by the following attributes: Loss of a business critical function making the System:</p> <ul style="list-style-type: none"> a. Not Available b. Substantially Unavailable or c. Seriously impacting normal business operations <p>Affects a group or groups of people, or a single individual performing a critical business function</p>	Within 2 hours	48 hours	12 business days
<p>Level Two:</p> <p>An Incident that significantly impacts or has the potential to significantly impact mission critical business operations or has moderate visibility to external customers. Incidents characterized by the following attributes:</p> <p>Does not render the System, unavailable or substantially unavailable, but a function or functions are:</p> <ul style="list-style-type: none"> d. Not Available e. Substantially unavailable or not functioning as they should, in each case prohibiting the execution of productive work <p>Affect either a group or groups of people, or a single individual performing a critical business function.</p>	Close of business day	3 business days	Release of next version of the System

Level 3: An Incident that impacts a non-critical system or component of the System for a limited number of Users, or that impacts the ability of one or a limited number of Users to perform their primary function.			
Level 4: An Incident that impacts a single User's ability to perform his or her job function.			

"Incident" means a security Incident, a material failure of the Environments to function in accordance with their Requirements or an unplanned interruption or degradation in the performance of the Environments.

* If the System Users report the Defect by voicemail or email, the Contractor will place a return call to the State to acknowledge receipt of the message and begin investigation and correction of the Defect.

** A patch is a work around, circumvented procedure, bug fix, or updated release.

*** Official fix, update fix or enhancement.

Contractor Response Times. The State will instruct System Users to report Defects by telephone, voicemail, or email to the Contractor. If the Contractor is unable to resolve the Defect immediately on the phone, the Contractor will assign a tracking number and one of the above classifications. On a twenty-four (24) hour, seven (7) day a week basis, the Contractor will respond to and correct the Defect by Secure Electronic Access within the time frames set forth above.

Reporting

Contractor must implement all testing, measurement and monitoring tools and procedures required to measure and report, on a monthly basis, Contractor's performance of the System against the applicable Service Levels set forth herein. Such testing, measurement and monitoring must permit reporting at a level of detail sufficient to verify compliance with the Service Levels set forth herein, and will be subject to audit by the State. Contractor will provide the State with information and access to all information or work product produced by such tools and procedures as part of the State's audit as applicable for purposes of verification.

Task 9: DocSite Migration Services

Contractor shall perform data migration services which shall be detailed in a Task Order to be executed in accordance with upon the development of a mutually agreed scope of services. The Task Orders for Task 9 is to be approved and signed by the State's Authorized Representatives, the DVHA Business Office and the Contractor prior to work commencement. The Task Order template can be found in Appendix 1, and the Task Order process is outlined in Attachment B, Payment Provisions, #3.

In addition to the migration services work to be defined within Task Order 9, the Contractor shall also deliver all Vermont data in the System to the State in a usable format and shall deliver any product specifications for custom work to the State as set forth below.

Deliverables

1. At the expiration or termination of this contract, the Contractor shall provide the State with a record of all data stored in the system from the Covisint DocSite Services in an electronic, industry-standard format acceptable to the State and Contractor at no additional cost to the State.
2. Contractor shall take all reasonable and prudent measures to facilitate the transition of the System to the State. This includes both knowledge transfer, and the turnover of the following to the State in the format as defined below or in a format acceptable to the State and Contractor no later than July 30, 2015:
 - a. Custom report specifications
 - b. Full data dictionary (conditions/measures/measure answers/surveys/survey answers) in Microsoft® Excel format
 - c. Custom program module functionality specifications (SASH, SMSP, Tobacco, CHT)

In addition to the tasks and ongoing maintenance listed above, the Contractor agrees to the following:

Data

- Data and derived data products (including aggregated, “de-identified”, or “randomized” data) collected, manipulated, or directly purchased as part of the Contract shall become the exclusive property of the State. The State is considered the custodian of the data and shall determine the use, access, distribution, and other conditions based on appropriate State statutes and regulations.
- Licensed and/or copyrighted data shall be governed by the terms and conditions identified in the terms of this Contract.
- The Contractor, within one day of discovery, shall report to the State any security breach. The Contractor's report shall identify: (i) the nature of the security breach, (ii) the State Data used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. The Contractor shall provide such other information, including a written report, as reasonably requested by the State.
- The Contractor agrees to comply with all applicable laws, as such laws may be amended from time to time (including, but not limited to, Chapter 62 of Title 9 of the Vermont Statutes and all applicable State and federal laws, rules or regulations) that require notification in the event of unauthorized release of personally-identifiable information or other event requiring notification. In the event of a breach of any of the Contractor's security obligations (“Notification Event”), the Contractor agrees to fully cooperate with the State, assume responsibility for such notice if the State determines it to be appropriate under the circumstances of any particular Security Breach, and assume all costs associated with a Security Breach and Notification Event, including but not limited to, notice, outside investigation and services (including mailing, call center, forensics, counsel and/or crisis management), and/or credit monitoring, in the sole determination of the State.

In addition to any other indemnification obligations in this Contract, the Contractor shall fully indemnify and save harmless the State from any costs, loss or damage to the State resulting from a Security Breach or the unauthorized disclosure of State Data by the Contractor, its officers, agents, employees, and subcontractors.

- In the event of a major incident, the application may lose no more than the last 24 hours of production data. (Recovery Point Objective).
- The Contractor shall provide the ability to recover from data loss due to end User error and end application error.
- The Contractor shall provide protection to maintain the integrity of data during concurrent access.

Encryption

The Contractor will address encryption requirements as follows:

1. All personally identifiable information (PII) data must be encrypted and must not impact program functionality, to include data at rest and data in motion, particularly when the State is not in physical control of the data.
2. Additional program data, as determined by the data owner, may be encrypted.
3. Data encryption methods may encompass cell-level, table-level, database-level, or file-level encryption, as long as objectives 1 and 2 are met. Additionally, all applications, Application Programming Interfaces (API), and services must be able to consume the data successfully using the selected method of encryption.
4. Encryption must use cryptographic key hierarchy conventions or its equivalent.
5. Advanced Encryption Standard (AES) with keys of at least 128 bit blocks shall be used by Contractor whenever it is feasible to do so.

Backups

The Contractor will provide the ability to perform archival (full backup)/incremental (changed or new since last backup) backups and the ability to perform open/closed database backups.

The Contractor will establish a maintenance routine that will perform daily, weekly, and monthly backups, including tape rotation.

Full weekly backups and daily differential backups must be taken.

Database backup files must not be stored on the same subsystem as the primary database files. Separate storage is necessary.

A virtual machine snapshot will be taken periodically and following any major change to the production environment.

State Ownership of Data and Portability Following Contract Termination

The State's information, or any derivatives thereof, held by Contractor or its subcontractors (the "State Data," which shall also be known and treated by Contractor as Confidential Information) shall be and remain the sole and exclusive property of the State. The State shall be entitled to an export of State Data, without charge, upon the request of the State and upon termination of this Agreement. The State shall have full ownership of and right, title and interest in all database information, including specific client-level data and aggregate data sets.

The Contractor agrees to deliver all data to the State upon the State's request, and the Contractor will possess no lien or other such rights to the data. Data transfer, storage, and retrieval procedures must protect the original data from alteration. The data shall be encrypted in transit and delivered in a standard, agreed-upon format by the Contractor for the full range of State Data and will be transmitted to the State through secure means.

The State will have up to six (6) months of full access to State data (client-level data and aggregate data sets) to obtain downloads before the Contractor can destroy client-level data and aggregate data sets. Once the State has acknowledged in writing to the Contractor's legally appointed representative that all data have been downloaded, the Contractor will destroy all State data and supply the State with a certified affidavit that all data, including backups, have been destroyed in accordance with privacy and security standards.

In the event that the Contractor goes out of business before the end of this agreement, the Contractor agrees to deliver all data to the State upon the State's request, and the Contractor will possess no lien or other such rights to the data. The Contractor will ensure that data is not available to any other entities but the State.

Required Project Policies, Guidelines and Methodologies

The Contractor shall comply with all applicable State security policies as determined by Vermont leadership and adhere to all legal, statutory, and regulatory requirements. The Contractor shall implement security controls in accordance with all applicable federal and State security policy and regulations. The Contractor will be required to comply with all applicable laws, regulations, policies, standards, and guidelines affecting information technology projects, which may be created or changed periodically. It is the responsibility of the Contractor to insure adherence to and to remain abreast of new or revised laws, regulations, policies, standards, and guidelines affecting project execution. Contractor shall comply with the HIPAA confidentiality and privacy policies, as further set forth in the Business Associate Agreement attached hereto. These may include, but are not limited to:

- The State's Information Technology Policies & Procedures at: http://dii.vermont.gov/Policy_Central
- The State's Record Management Best Practice at: <http://vermont-archives.org/records/standards/pdf/RecordsManagementBestPractice.pdf>
- The State Information Security Best Practice Guideline at: http://vermont-archives.org/records/standards/pdf/InformationSecurityBestPractice_Eff.20090501.pdf
- The State Digital Imaging Guidelines at: <http://vermont-archives.org/records/standards/pdf/ImagingGuideline2008.pdf>
- The State File Formats Best Practice at: http://vermont-archives.org/records/standards/pdf/FileFormatsBestPractice_Eff.20071201.pdf
- The State File Formats Guideline at: <http://vermont-archives.org/records/standards/pdf/FileFormatsGuideline2008.pdf>
- The State Metadata Guideline at: <http://vermont-archives.org/records/standards/pdf/MetadataGuideline2008.pdf>

The Contractor agrees not to publish, reproduce, or otherwise divulge any State Data in whole or in part, in any manner or form or authorize or permit others to do so. Contractor will take reasonable measures as are necessary to restrict access to State Data in the Contractor's possession to only those employees on its staff who must have the information on a "need to know" basis. The

Contractor shall use State Data only for the purposes of and in accordance with this Contract. The Contractor shall provide at a minimum the same care to avoid disclosure or unauthorized use of State Data as it provides to protect its own similar confidential and proprietary information.

The Contractor shall promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for State Data to which the Contractor or any third party hosting service of the Contractor may have access, so that the State may seek an appropriate protective order.

Hosted System Requirements:

The State will have the right to review the Contractor's information security program from time to time during the term of this Agreement. During the performance of the services, on an ongoing basis from time to time and without notice, the State, at its own expense, will be entitled to perform, or to have performed, an on-site audit of the Contractor's information security program. In lieu of an on-site audit, upon request by the State, the Contractor agrees to complete, within forty-five (45) days of receipt, an audit questionnaire provided by the State regarding the Contractor's information security program.

The Contractor will implement any reasonably required safeguards as identified by the State or information security program audits based on industry standards for such safeguards.

The Contractor will sign a confidentiality agreement.

The State reserves the right to periodically audit the Contractor application infrastructure to ensure physical and network infrastructure meets the configuration and security standards and is in adherence to relevant State policies governing the system. Non-intrusive network audits (basic port scans, etc.) may be done randomly, without prior notice. More intrusive network and physical audits may be conducted on or off site with 24 hours' notice as coordinated with Contractor and as long as there is no impact on Contractor's other customers in the multi-tenant environment.

Security events will be reported to the State. Security-related events include, but are not limited to:

- Evidence of unauthorized access to privileged accounts
- Evidence of unauthorized access to data

All security-related events on critical or sensitive systems must be logged and audit trails saved for one year.

The Contractor will have a third party perform methodology-based (such as OSSTM) penetration testing quarterly and be willing to provide results of that testing to the AHS Security Director.

Hosted systems will issue passwords using one of the following methods:

1. Require administration to give password over the phone after identifying the individual.
2. Set a temporary password and have User change it after.

The vendor shall adhere to the principle of "Fail Safe" to ensure that a system in a failed state does not reveal any sensitive information or leave any access controls open for attacks.

All host systems shall be onshore, in the United States, and under no circumstances shall the Contractor house or transmit the State's data offshore or outside the contiguous continental United States.

Professional Liability Insurance Coverage:

In addition to the insurance required in Attachment C to this Contract, before commencing work on this Contract and throughout the term of this Contract, Contractor agrees to procure and maintain Technology Professional Liability insurance for any and all services performed under this Contract, with minimum third party coverage of \$2,000,000 per claim, \$10,000,000 aggregate, and first party Breach Notification Coverage of not less than \$5,000,000.

- 4. By adding to Attachment B (Payment Provisions), the following payment provisions specific to the period of July 1, 2015 through August 31, 2015:**

**ATTACHMENT B
PAYMENT PROVISIONS**

The maximum dollar amount payable under this agreement is not intended as any form of a guaranteed amount. The Contractor will be paid for services specified in Attachment A, for services performed, up to the maximum allowable amount specified in this agreement. State of Vermont payment terms are Net 30 days from date of invoice submission; payments against this contract will comply with the State's payment terms. The payment schedule for delivered products, or rates for services performed, and any additional reimbursements, are included in this attachment. The following provisions specifying payments are:

1. The Contractor shall invoice the State monthly for incurred work under Tasks 8 and 9 for the period of July 1, 2015 through August 31, 2015.
2. Work under Task 9 shall be driven by an approved and properly signed Task Order 9 (see Appendix 1 for template). Task Order 9 includes the following:
 - a. Scope of Work
 - b. Projected Deliverables
 - c. Anticipated Duration
 - d. Cost
 - e. Due Date
3. Any changes to Task Order 9 under Task 9 must receive approval by the State and be signed by the Contractor, the State Authorized Representatives, and the DVHA Business Office prior to continuation of the outlined work.
4. The State will not pay for services that are not previously approved in a Task Order by both authorized representatives listed within this section. Changes to a Task Order shall be accomplished by written modification and must be agreed to in writing by both State officials listed below:

Natalie Elvidge, Contract and Grant Management Specialist
Department of Vermont Health Access

312 Hurricane Lane
Williston, VT 054945
natalie.elvidge@state.vt.us

Miki Hazard, Assistant Director - Vermont Blueprint for Health
Department of Vermont Health Access
312 Hurricane Lane
Williston, VT 054945
miki.hazard@state.vt.us

5. The Contractor shall invoice the State once monthly. Invoices must be accompanied by a completed Financial Reporting Form (Appendix 3).
6. The Contractor shall submit invoices on or by the 15th of each month to the State for services provided under this contract #23945 during the previous month. Each invoice must include:
 - a. a unique invoice number
 - b. contract number
 - c. dates of service
 - d. accurate date of invoice submission
 - e. Tasks and Task Orders under which payments are being invoiced
7. All invoices should be submitted in electronic format to:

Natalie Elvidge
Natalie.Elvidge@state.vt.us

Miki Hazard
Miki.Hazard@state.vt.us

8. Subcontractor Requirements:
Per Attachment C, Section 15, if the Contractor chooses to subcontract work under this agreement, the Contractor must first fill out and submit the Request for Approval to Subcontract Form (Appendix 4) in order to seek approval from the State prior to signing an agreement with a third party. Upon receipt of the Request for Approval to Subcontract Form, the State shall review and respond within five (5) business days. Under no circumstance shall the Contractor enter into a sub-agreement without prior authorization from the State. The Contractor shall submit the Request for Approval to Subcontract Form (Appendix 4) to:

Natalie Elvidge
Department of Vermont Health Access
312 Hurricane Lane, Suite 201
Williston, VT 05495
Natalie.Elvidge@state.vt.us

Should the status of any third party or Subrecipient change, the Contractor is responsible for updating the State within fourteen (14) days of said change.

9. Deliverable Acceptance:
Upon completion of development or issue resolution deliverables (subject to UAT), the Contractor shall submit the signed Deliverable Acceptance form (Appendix 5) to the State for acceptance. The following tasks and deliverables are subject to State approval via this form:

Task 9: DocSite Migration Services specified in Task Order #9, all deliverables

If the deliverable meets the acceptance criteria established in Task Order #9, the State Blueprint Assistant Director will sign the form and email it back to the Contractor. If the deliverable does not meet the criteria of acceptance by the State, the State shall provide feedback and comments to the Contractor. The Contractor shall provide documentation of accepted deliverables with submission of the final monthly invoice.

Acceptance of the deliverables/products by the State via Deliverable Approval form (Appendix 5) shall represent the Contractor's fulfillment of the project assignment. The State will have five (5) business days to acknowledge the final deliverables/products or to reject them.

10. The maximum amount payable under this contract for services and expenses shall not exceed **\$9,496,693**.

For the period of December 9, 2010 through June 30, 2014, the State agrees to pay the Contractor a sum not to exceed **\$8,131,531**. This calculation is based on the Maximum Amount of the base agreement through Amendment 3, estimating \$300,000 underspend.

For the period of July 1, 2014 through June 30, 2015, the State agrees to pay the Contractor a sum not to exceed **\$1,275,996.00**

For the period of July 1, 2015 through August 31, 2015, the State agrees to pay the Contractor a sum not to exceed **\$89,166.00**

11. The following provisions specifying payments are:

Task 8: Hosting and User Account Support Services

The Contractor may invoice \$7,083 per month for provision of hosting services for the PROD, STG, and de-identified demo and de-identified demo reporting environments.

For each of these environments, uptime expectations are documented below.

PROD (Production, Live):

The Contractor will maintain 99.5% uptime (maximum of 4 hours of downtime per month) for the Live (PROD) environment with the exception of the monthly planned maintenance and deployment window (4 hours).

STG (Staging, QA, Dev):

The Contractor will maintain 95% uptime (maximum of 36 hours of downtime per month) for the STG environment. During periods of UAT or other projects requiring STG to remain up, the Contractor shall proactively communicate expected downtime periods to the State as reasonably possible.

De-Identified Demo and De-Identified Demo Reporting Sites:

The Contractor shall maintain 95% uptime (maximum of 36 hours of downtime per month) for these sites. The Contractor shall proactively communicate expected and unanticipated downtime periods to the State as reasonably possible.

Task 9: DocSite Migration Services for July and August 2015

The Contractor may invoice up to a total of \$75,000 for services specified under Task Order 9. For services performed in the month of July, the Contractor may invoice up to \$37,500 on a time and materials basis at a rate of \$155 per hour. The remaining \$37,500 for Task Order #9 may only be invoiced in a lump sum upon State acceptance of all deliverables specified in Task Order #9 via a signed Deliverable Acceptance form (Appendix 5).

12. In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed **\$9,496,693**.

For the period of December 9, 2010 through June 30, 2014, the State agrees to pay the Contractor a sum not to exceed **\$8,131,531**. This calculation is based on the Maximum Amount of the base agreement through Amendment 3, estimating \$300,000 underspend.

For the period of July 1, 2014 through June 30, 2015, the State agrees to pay the Contractor a sum not to exceed **\$1,275,996.00**

For the period of July 1, 2015 through August 31, 2015, the State agrees to pay the Contractor a sum not to exceed **\$89,166.00**

BUDGET
July 1, 2015 through August 31, 2015

Covisint Amendment #5 Budget Summary			
Task	Description	Unit Amount	Total Amount Budgeted
Task 8	Hosting and User Account Support Services	\$7,083 invoiced monthly	\$14,166.00
Task 9	DocSite Migration Services	Maximum of \$75,000, invoiced as: <ul style="list-style-type: none">\$37,500 for time and materials work in July\$37,500 upon acceptance of all deliverables specified in the most current signed and executed version of Task Order #9	\$75,000
Total Amendment 5 Budget July 1, 2015 through August 31, 2015			\$89,166

- 5.) By replacing Attachment C (Customary Provisions for Contract and Grants), and substituting in lieu thereof the following Attachment C, revised 3/1/15, which is an attachment of this amendment beginning on page 12.
- 6.) By replacing Attachment E (Business Associate Agreement), beginning on page 36 of 53 of Amendment 4, and substituting in lieu thereof the following Attachment E, revised 5/5/15, which is an attachment of this amendment beginning on page 17.

This amendment consists of 34 pages. Except as modified by this amendment and any previous amendments, all provisions of this contract, (#23945) dated December 9, 2010 shall remain unchanged and in full force and effect.

STATE OF VERMONT
DEPARTMENT OF VERMONT HEALTH ACCESS

CONTRACTOR
COVISINT

STEVEN COSTANTINO, COMMISSIONER
312 Hurricane Lane, Suite 201
Williston, VT 05495-2087
Phone: 802-879-5901
Email: Steven.Costantino@state.vt.us
AHS/DVHA

DATE MICHAEL KEDDINGTON, SVP
1 Campus Martius- 7M
Detroit, MI 48226
DATE
Email: michael.keddington@covisint.com
COVISINT

ATTACHMENT C: STANDARD STATE PROVISIONS FOR CONTRACTS AND GRANTS

1. **Entire Agreement:** This Agreement, whether in the form of a Contract, State Funded Grant, or Federally Funded Grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.
2. **Applicable Law:** This Agreement will be governed by the laws of the State of Vermont.
3. **Definitions:** For purposes of this Attachment, "Party" shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement.
4. **Appropriations:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and in the event federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.
5. **No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the state withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.
6. **Independence, Liability:** The Party will act in an independent capacity and not as officers or employees of the State.

The Party shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit.

After a final judgment or settlement the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party.

The Party shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party.

7. **Insurance:** Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the state through the term of the Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

General Liability and Property Damage: With respect to all operations performed under the contract, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations

Products and Completed Operations

Personal Injury Liability

Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$1,000,000 Per Occurrence

\$1,000,000 General Aggregate

\$1,000,000 Products/Completed Operations Aggregate

\$ 50,000 Fire/ Legal/Liability

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement.

Limits of coverage shall not be less than: \$1,000,000 combined single limit.

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Professional Liability: Before commencing work on this Agreement and throughout the term of this Agreement, the Party shall procure and maintain Technology Professional Liability Insurance for any and all services performed under this Agreement, with minimum coverage of \$2,000,000 per occurrence, and \$5,000,000 aggregate.

8. **Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all prior representations by the Party, including but not limited to bills, invoices, progress reports and other proofs of work.
9. **Requirement to Have a Single Audit:** In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, the Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a

Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

- 10. Records Available for Audit:** The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.
- 11. Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of Title 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement. Party further agrees to include this provision in all subcontracts.
- 12. Set Off:** The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.
- 13. Taxes Due to the State:**
 - a. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
 - b. Party certifies under the pains and penalties of perjury that, as of the date the Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
 - c. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
 - d. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the

time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

14. Child Support: (Applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date the Agreement is signed, he/she:

- a. is not under any obligation to pay child support; or
- b. is under such an obligation and is in good standing with respect to that obligation; or
- c. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

15. Sub-Agreements: Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in all subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.

16. No Gifts or Gratuities: Party shall not give title or possession of any thing of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

17. Copies: All written reports prepared under this Agreement will be printed using both sides of the paper.

18. Certification Regarding Debarment: Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at:

<http://bgs.vermont.gov/purchasing/debarment>

19. Certification Regarding Use of State Funds: In the case that Party is an employer and this Agreement is a State Funded Grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.

20. Internal Controls: In the case that this Agreement is an award that is funded in whole or in part by Federal funds, in accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of

the United States and the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

- 21. Mandatory Disclosures:** In the case that this Agreement is an award funded in whole or in part by Federal funds, in accordance with 2CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.
- 22. Conflict of Interest:** Party must disclose in writing any potential conflict of interest in accordance with Uniform Guidance §200.112, Bulletin 5 Section IX and Bulletin 3.5 Section IV.B.

(End of Standard Provisions)

AHS -State of Vermont – Attachment C_3-1-2015_rev

**ATTACHMENT E
BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (“Agreement”) is entered into by and between the State of Vermont Agency of Human Services, operating by and through its **Department of Vermont Health Access** (“Covered Entity”) and **Covisint Corporation** (“Business Associate”) as of **December 10, 2010** (“Effective Date”). This Agreement supplements and is made a part of the contract/grant to which it is attached.

Covered Entity and Business Associate enter into this Agreement to comply with standards promulgated under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), including the Standards for the Privacy of Individually Identifiable Health Information, at 45 CFR Parts 160 and 164 (“Privacy Rule”), and the Security Standards, at 45 CFR Parts 160 and 164 (“Security Rule”), as amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act (HITECH), and any associated federal rules and regulations.

The parties agree as follows:

1. Definitions. All capitalized terms used but not otherwise defined in this Agreement have the meanings set forth in 45 CFR Parts 160 and 164 as amended by HITECH and associated federal rules and regulations.

“Agent” means those person(s) who are agents(s) of the Business Associate, in accordance with the Federal common law of agency, as referenced in 45 CFR § 160.402(c).

“Breach” means the acquisition, access, use or disclosure of protected health information (PHI) which compromises the security or privacy of the PHI, except as excluded in the definition of Breach in 45 CFR § 164.402.

“Business Associate shall have the meaning given in 45 CFR § 160.103.

“Individual” includes a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

“Protected Health Information” or PHI shall have the meaning given in 45 CFR § 160.103, limited to the information created or received by Business Associate from or on behalf of Agency.

“Security Incident” means any known successful or unsuccessful attempt by an authorized or unauthorized individual to inappropriately use, disclose, modify, access, or destroy any information or interference with system operations in an information system.

“Services” includes all work performed by the Business Associate for or on behalf of Covered Entity that requires the use and/or disclosure of protected health information to perform a business associate function described in 45 CFR § 160.103 under the definition of Business Associate.

“Subcontractor” means a person or organization to whom a Business Associate delegates a function, activity or service, other than in the capacity of a member of the workforce of the Business Associate. For purposes of this Agreement, the term Subcontractor includes Subgrantees.

2. **Identification and Disclosure of Privacy and Security Offices.** Business Associate and Subcontractors shall provide, within ten (10) days of the execution of this agreement, written notice to the Covered Entity's contract/grant manager the names and contact information of both the HIPAA Privacy Officer and HIPAA Security Officer. This information must be updated any time either of these contacts changes.

3. **Permitted and Required Uses/Disclosures of PHI.**

3.1 Except as limited in this Agreement, Business Associate may use or disclose PHI to perform Services, as specified in the underlying grant or contract with Covered Entity. The uses and disclosures of Business Associate are limited to the minimum necessary, to complete the tasks or to provide the services associated with the terms of the underlying agreement. Business Associate shall not use or disclose PHI in any manner that would constitute a violation of the Privacy Rule if used or disclosed by Covered Entity in that manner. Business Associate may not use or disclose PHI other than as permitted or required by this Agreement or as Required by Law.

3.2 Business Associate may make PHI available to its employees who need access to perform Services provided that Business Associate makes such employees aware of the use and disclosure restrictions in this Agreement and binds them to comply with such restrictions. Business Associate may only disclose PHI for the purposes authorized by this Agreement: (a) to its agents and Subcontractors in accordance with Sections 9 and 17 or, (b) as otherwise permitted by Section 3.

3.3 Business Associate shall be directly liable under HIPAA for impermissible uses and disclosures of the PHI it handles on behalf of Covered Entity, and for impermissible uses and disclosures, by Business Associate's Subcontractor(s), of the PHI that Business Associate handles on behalf of Covered Entity and that it passes on to Subcontractors.

4. **Business Activities.** Business Associate may use PHI received in its capacity as a Business Associate to Covered Entity if necessary for Business Associate's proper management and administration or to carry out its legal responsibilities. Business Associate may disclose PHI received in its capacity as Business Associate to Covered Entity for Business Associate's proper management and administration or to carry out its legal responsibilities if a disclosure is Required by Law or if Business Associate obtains reasonable written assurances via a written agreement from the person to whom the information is to be disclosed that the PHI shall remain confidential and be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the Agreement requires the person or entity to notify Business Associate, within two (2) business days (who in turn will notify Covered Entity within two (2) business days after receiving notice of a Breach as specified in Section 6.1), in writing of any Breach of Unsecured PHI of which it is aware. Uses and disclosures of PHI for the purposes identified in Section 3 must be of the minimum amount of PHI necessary to accomplish such purposes.

5. **Safeguards.** Business Associate, its Agent(s) and Subcontractor(s) shall implement and use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for by this Agreement. With respect to any PHI that is maintained in or transmitted by electronic media, Business

Associate or its Subcontractor(s) shall comply with 45 CFR sections 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards) and 164.316 (policies and procedures and documentation requirements). Business Associate or its Agent(s) and Subcontractor(s) shall identify in writing upon request from Covered Entity all of the safeguards that it uses to prevent impermissible uses or disclosures of PHI.

6. Documenting and Reporting Breaches.

6.1 Business Associate shall report to Covered Entity any Breach of Unsecured PHI, including Breaches reported to it by a Subcontractor, as soon as it (or any of its employees or agents) becomes aware of any such Breach, and in no case later than two (2) business days after it (or any of its employees or agents) becomes aware of the Breach, except when a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security.

6.2 Business Associate shall provide Covered Entity with the names of the individuals whose Unsecured PHI has been, or is reasonably believed to have been, the subject of the Breach and any other available information that is required to be given to the affected individuals, as set forth in 45 CFR § 164.404(c), and, if requested by Covered Entity, information necessary for Covered Entity to investigate the impermissible use or disclosure. Business Associate shall continue to provide to Covered Entity information concerning the Breach as it becomes available to it. Business Associate shall require its Subcontractor(s) to agree to these same terms and conditions.

6.3 When Business Associate determines that an impermissible acquisition, use or disclosure of PHI by a member of its workforce is not a Breach, as that term is defined in 45 CFR § 164.402, and therefore does not necessitate notice to the impacted individual(s), it shall document its assessment of risk, conducted as set forth in 45 CFR § 402(2). When requested by Covered Entity, Business Associate shall make its risk assessments available to Covered Entity. It shall also provide Covered Entity with 1) the name of the person(s) making the assessment, 2) a brief summary of the facts, and 3) a brief statement of the reasons supporting the determination of low probability that the PHI had been compromised. When a breach is the responsibility of a member of its Subcontractor's workforce, Business Associate shall either 1) conduct its own risk assessment and draft a summary of the event and assessment or 2) require its Subcontractor to conduct the assessment and draft a summary of the event. In either case, Business Associate shall make these assessments and reports available to Covered Entity.

6.4 Business Associate shall require, by contract, a Subcontractor to report to Business Associate and Covered Entity any Breach of which the Subcontractor becomes aware, no later than two (2) business days after becomes aware of the Breach.

7. Mitigation and Corrective Action. Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to it of an impermissible use or disclosure of PHI, even if the impermissible use or disclosure does not constitute a Breach. Business Associate shall draft and carry out a plan of corrective action to address any incident of impermissible use or disclosure of PHI. If requested by Covered Entity, Business Associate shall make its mitigation and corrective action plans available to Covered Entity. Business Associate shall require a Subcontractor to agree to these same terms and conditions.

8. Providing Notice of Breaches.

8.1 If Covered Entity determines that an impermissible acquisition, access, use or disclosure of PHI for which one of Business Associate's employees or agents was responsible constitutes a Breach as defined in 45 CFR § 164.402, and if requested by Covered Entity, Business Associate shall provide notice to the individual(s) whose PHI has been the subject of the Breach. When requested to provide notice, Business Associate shall consult with Covered Entity about the timeliness, content and method of notice, and shall receive Covered Entity's approval concerning these elements. The cost of notice and related remedies shall be borne by Business Associate.

8.2 If Covered Entity or Business Associate determines that an impermissible acquisition, access, use or disclosure of PHI by a Subcontractor of Business Associate constitutes a Breach as defined in 45 CFR § 164.402, and if requested by Covered Entity or Business Associate, Subcontractor shall provide notice to the individual(s) whose PHI has been the subject of the Breach. When Covered Entity requests that Business Associate or its Subcontractor provide notice, Business Associate shall either 1) consult with Covered Entity about the specifics of the notice as set forth in section 8.1, above, or 2) require, by contract, its Subcontractor to consult with Covered Entity about the specifics of the notice as set forth in section 8.1

8.3 The notice to affected individuals shall be provided as soon as reasonably possible and in no case later than 60 calendar days after Business Associate reported the Breach to Covered Entity.

8.4 The notice to affected individuals shall be written in plain language and shall include, to the extent possible, 1) a brief description of what happened, 2) a description of the types of Unsecured PHI that were involved in the Breach, 3) any steps individuals can take to protect themselves from potential harm resulting from the Breach, 4) a brief description of what the Business Associate is doing to investigate the Breach, to mitigate harm to individuals and to protect against further Breaches, and 5) contact procedures for individuals to ask questions or obtain additional information, as set forth in 45 CFR § 164.404(c).

8.5 Business Associate shall notify individuals of Breaches as specified in 45 CFR § 164.404(d) (methods of individual notice). In addition, when a Breach involves more than 500 residents of Vermont, Business Associate shall, if requested by Covered Entity, notify prominent media outlets serving Vermont, following the requirements set forth in 45 CFR § 164.406.

9. Agreements with Subcontractors. Business Associate shall enter into a Business Associate Agreement with any Subcontractor to whom it provides PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity in which the Subcontractor agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such PHI. Business Associate must enter into this Business Associate Agreement before any use by or disclosure of PHI to such agent. The written agreement must identify Covered Entity as a direct and intended third party beneficiary with the right to enforce any breach of the agreement concerning the use or disclosure of PHI. Business Associate shall provide a copy of the Business Associate Agreement it enters into with a subcontractor to Covered Entity upon request. Business

associate may not make any disclosure of PHI to any Subcontractor without prior written consent of Covered Entity.

10. Access to PHI. Business Associate shall provide access to PHI in a Designated Record Set to Covered Entity or as directed by Covered Entity to an Individual to meet the requirements under 45 CFR § 164.524. Business Associate shall provide such access in the time and manner reasonably designated by Covered Entity. Within three (3) business days, Business Associate shall forward to Covered Entity for handling any request for access to PHI that Business Associate directly receives from an Individual.

11. Amendment of PHI. Business Associate shall make any amendments to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR § 164.526, whether at the request of Covered Entity or an Individual. Business Associate shall make such amendments in the time and manner reasonably designated by Covered Entity. Within three (3) business days, Business Associate shall forward to Covered Entity for handling any request for amendment to PHI that Business Associate directly receives from an Individual.

12. Accounting of Disclosures. Business Associate shall document disclosures of PHI and all information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. Business Associate shall provide such information to Covered Entity or as directed by Covered Entity to an Individual, to permit Covered Entity to respond to an accounting request. Business Associate shall provide such information in the time and manner reasonably designated by Covered Entity. Within three (3) business days, Business Associate shall forward to Covered Entity for handling any accounting request that Business Associate directly receives from an Individual.

13. Books and Records. Subject to the attorney-client and other applicable legal privileges, Business Associate shall make its internal practices, books, and records (including policies and procedures and PHI) relating to the use and disclosure of PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity available to the Secretary in the time and manner designated by the Secretary. Business Associate shall make the same information available to Covered Entity, upon Covered Entity's request, in the time and manner reasonably designated by Covered Entity so that Covered Entity may determine whether Business Associate is in compliance with this Agreement.

14. Termination.

14.1 This Agreement commences on the Effective Date and shall remain in effect until terminated by Covered Entity or until all of the PHI provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity is destroyed or returned to Covered Entity subject to Section 18.8.

14.2 If Business Associate breaches any material term of this Agreement, Covered Entity may either: (a) provide an opportunity for Business Associate to cure the breach and Covered Entity may terminate the contract or grant without liability or penalty if Business Associate does not cure the breach within the time specified by Covered Entity; or (b) immediately terminate the contract or grant without liability or penalty if Covered Entity believes that cure is not reasonably possible; or (c) if neither termination nor cure are feasible, Covered Entity

shall report the breach to the Secretary. Covered Entity has the right to seek to cure any breach by Business Associate and this right, regardless of whether Covered Entity cures such breach, does not lessen any right or remedy available to Covered Entity at law, in equity, or under the contract or grant, nor does it lessen Business Associate's responsibility for such breach or its duty to cure such breach.

15. Return/Destruction of PHI.

15.1 Business Associate in connection with the expiration or termination of the contract or grant shall return or destroy, at the discretion of the Covered Entity, all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity pursuant to this contract or grant that Business Associate still maintains in any form or medium (including electronic) within thirty (30) days after such expiration or termination. Business Associate shall not retain any copies of the PHI. Business Associate shall certify in writing for Covered Entity (1) when all PHI has been returned or destroyed and (2) that Business Associate does not continue to maintain any PHI. Business Associate is to provide this certification during this thirty (30) day period.

15.2 Business Associate shall provide to Covered Entity notification of any conditions that Business Associate believes make the return or destruction of PHI infeasible. If Covered Entity agrees that return or destruction is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible for so long as Business Associate maintains such PHI. This shall also apply to all Agents and Subcontractors of Business Associate.

16. Penalties and Training. Business Associate understands that: (a) there may be civil or criminal penalties for misuse or misappropriation of PHI and (b) violations of this Agreement may result in notification by Covered Entity to law enforcement officials and regulatory, accreditation, and licensure organizations. If requested by Covered Entity, Business Associate shall participate in training regarding the use, confidentiality, and security of PHI.

17. Security Rule Obligations. The following provisions of this section apply to the extent that Business Associate creates, receives, maintains or transmits Electronic PHI on behalf of Covered Entity.

17.1 Business Associate shall implement and use administrative, physical, and technical safeguards in compliance with 45 CFR sections 164.308, 164.310, and 164.312 with respect to the Electronic PHI that it creates, receives, maintains or transmits on behalf of Covered Entity. Business Associate shall identify in writing upon request from Covered Entity all of the safeguards that it uses to protect such Electronic PHI.

17.2 Business Associate shall ensure that any Agent and Subcontractor to whom it provides Electronic PHI agrees in a written agreement to implement and use administrative, physical, and technical safeguards that reasonably and appropriately protect the Confidentiality, Integrity and Availability of the Electronic PHI. Business Associate must enter into this written agreement before any use or disclosure of Electronic PHI by such Agent or Subcontractor. The written agreement must identify Covered Entity as a direct and intended third party beneficiary

with the right to enforce any breach of the agreement concerning the use or disclosure of Electronic PHI. Business Associate shall provide a copy of the written agreement to Covered Entity upon request. Business Associate may not make any disclosure of Electronic PHI to any Agent or Subcontractor without the prior written consent of Covered Entity.

17.3 Business Associate shall report in writing to Covered Entity any Security Incident pertaining to such Electronic PHI (whether involving Business Associate or an Agent or Subcontractor). Business Associate shall provide this written report as soon as it becomes aware of any such Security Incident, and in no case later than two (2) business days after it becomes aware of the incident. Business Associate shall provide Covered Entity with the information necessary for Covered Entity to investigate any such Security Incident.

17.4 Business Associate shall comply with any reasonable policies and procedures Covered Entity implements to obtain compliance under the Security Rule.

18. Miscellaneous.

18.1 In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the contract/grant, the terms of this Agreement shall govern with respect to its subject matter. Otherwise, the terms of the contract/grant continue in effect.

18.2 Business Associate shall cooperate with Covered Entity to amend this Agreement from time to time as is necessary for Covered Entity to comply with the Privacy Rule, the Security Rule, or any other standards promulgated under HIPAA.

18.3 Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule, Security Rule, or any other standards promulgated under HIPAA.

18.4 In addition to applicable Vermont law, the parties shall rely on applicable federal law (e.g., HIPAA, the Privacy Rule and Security Rule, and the HIPAA omnibus final rule) in construing the meaning and effect of this Agreement.

18.5 As between Business Associate and Covered Entity, Covered Entity owns all PHI provided by Covered Entity to Business Associate or created or received by Business Associate on behalf of Covered Entity.

18.6 Business Associate shall abide by the terms and conditions of this Agreement with respect to all PHI it receives from Covered Entity or creates or receives on behalf of Covered Entity even if some of that information relates to specific services for which Business Associate may not be a "Business Associate" of Covered Entity under the Privacy Rule.

18.7 Business Associate is prohibited from directly or indirectly receiving any remuneration in exchange for an individual's PHI. Business Associate will refrain from marketing activities that would violate HIPAA, including specifically Section 13406 of the HITECH Act. Reports or data containing the PHI may not be sold without Agency's or the affected individual's written consent.

18.8 The provisions of this Agreement that by their terms encompass continuing rights or responsibilities shall survive the expiration or termination of this Agreement. For example: (a) the provisions of this Agreement shall continue to apply if Covered Entity determines that it would be infeasible for Business Associate to return or destroy PHI as provided in Section 14.2 and (b) the obligation of Business Associate to provide an accounting of disclosures as set forth in Section 11 survives the expiration or termination of this Agreement with respect to accounting requests, if any, made after such expiration or termination.

(Rev: 5/5/15)

ATTACHMENT F
AGENCY OF HUMAN SERVICES' CUSTOMARY CONTRACT PROVISIONS

1. **Agency of Human Services – Field Services Directors** will share oversight with the department (or field office) that is a party to the contract for provider performance using outcomes, processes, terms and conditions agreed to under this contract.
2. **2-1-1 Data Base:** The Contractor providing a health or human services within Vermont, or near the border that is readily accessible to residents of Vermont, will provide relevant descriptive information regarding its agency, programs and/or contact and will adhere to the "Inclusion/Exclusion" policy of Vermont's United Way/Vermont 211. If included, the Contractor will provide accurate and up to date information to their data base as needed. The "Inclusion/Exclusion" policy can be found at www.vermont211.org
3. **Medicaid Program Contractors:**

Inspection of Records: Any contracts accessing payments for services through the Global Commitment to Health Waiver and Vermont Medicaid program must fulfill state and federal legal requirements to enable the Agency of Human Services (AHS), the United States Department of Health and Human Services (DHHS) and the Government Accounting Office (GAO) to:

Evaluate through inspection or other means the quality, appropriateness, and timeliness of services performed; and Inspect and audit any financial records of such Contractor or subcontractor.

Subcontracting for Medicaid Services: Having a subcontract does not terminate the Contractor, receiving funds under Vermont's Medicaid program, from its responsibility to ensure that all activities under this agreement are carried out. Subcontracts must specify the activities and reporting responsibilities of the Contractor or subcontractor and provide for revoking delegation or imposing other sanctions if the Contractor or subcontractor's performance is inadequate. The Contractor agrees to make available upon request to the Agency of Human Services; the Department of Vermont Health Access; the Department of Disabilities, Aging and Independent Living; and the Center for Medicare and Medicaid Services (CMS) all contracts and subcontracts between the Contractor and service providers.

Medicaid Notification of Termination Requirements: Any Contractor accessing payments for services under the Global Commitment to Health Waiver and Medicaid programs who terminates their practice will follow the Department of Vermont Health Access, Managed Care Organization enrollee notification requirements.

Encounter Data: Any Contractor accessing payments for services through the Global Commitment to Health Waiver and Vermont Medicaid programs must provide encounter data to the Agency of Human Services and/or its departments and ensure that it can be linked to enrollee eligibility files maintained by the State.

Federal Medicaid System Security Requirements Compliance: All contractors and subcontractors must provide a security plan, risk assessment, and security controls review document within three months of the start date of this agreement (and update it annually thereafter) to support audit compliance with 45CFR95.621 subpart F, *ADP (Automated Data Processing) System Security Requirements and Review Process*.

4. **Non-discrimination Based on National Origin as evidenced by Limited English Proficiency.** The Contractor agrees to comply with the non-discrimination requirements of Title VI of the Civil

Rights Act of 1964, 42 USC Section 2000d, et seq., and with the federal guidelines promulgated pursuant to Executive Order 13166 of 2000, which require that contractors and subcontractors receiving federal funds must assure that persons with limited English proficiency can meaningfully access services. To the extent the Contractor provides assistance to individuals with limited English proficiency through the use of oral or written translation or interpretive services in compliance with this requirement, such individuals cannot be required to pay for such services.

5. **Voter Registration.** When designated by the Secretary of State, the Contractor agrees to become a voter registration agency as defined by 17 V.S.A. §2103 (41), and to comply with the requirements of state and federal law pertaining to such agencies.
6. **Drug Free Workplace Act.** The Contractor will assure a drug-free workplace in accordance with 45 CFR Part 76.
7. **Privacy and Security Standards.**

Protected Health Information: The Contractor shall maintain the privacy and security of all individually identifiable health information acquired by or provided to it as a part of the performance of this contract. The Contractor shall follow federal and state law relating to privacy and security of individually identifiable health information as applicable, including the Health Insurance Portability and Accountability Act (HIPAA) and its federal regulations.

Substance Abuse Treatment Information: The confidentiality of any alcohol and drug abuse treatment information acquired by or provided to the Contractor or subcontractor shall be maintained in compliance with any applicable state or federal laws or regulations and specifically set out in 42 CFR Part 2.

Other Confidential Consumer Information: The Contractor agrees to comply with the requirements of AHS Rule No. 08-048 concerning access to information. The Contractor agrees to comply with any applicable Vermont State Statute, including but not limited to 12 VSA §1612 and any applicable Board of Health confidentiality regulations. The Contractor shall ensure that all of its employees and subcontractors performing services under this agreement understand the sensitive nature of the information that they may have access to and sign an affirmation of understanding regarding the information's confidential and non-public nature.

Social Security numbers: The Contractor agrees to comply with all applicable Vermont State Statutes to assure protection and security of personal information, including protection from identity theft as outlined in Title 9, Vermont Statutes Annotated, Ch. 62.

8. **Abuse Registry.** The Contractor agrees not to employ any individual, use any volunteer, or otherwise provide reimbursement to any individual in the performance of services connected with this agreement, who provides care, custody, treatment, transportation, or supervision to children or vulnerable adults if there is a substantiation of abuse or neglect or exploitation against that individual. The Contractor will check the Adult Abuse Registry in the Department of Disabilities, Aging and Independent Living. Unless the Contractor holds a valid child care license or registration from the Division of Child Development, Department for Children and Families, the Contractor shall also check the Central Child Protection Registry. (See 33 V.S.A. §4919(a)(3) & 33 V.S.A. §6911(c)(3)).
9. **Reporting of Abuse, Neglect, or Exploitation.** Consistent with provisions of 33 V.S.A. §4913(a) and §6903, any agent or employee of a Contractor who, in the performance of services connected with this agreement, has contact with clients or is a caregiver and who has reasonable cause to believe that a child or vulnerable adult has been abused or neglected as defined in Chapter 49 or abused, neglected, or exploited as defined in Chapter 69 of Title 33 V.S.A. shall make a report

involving children to the Commissioner of the Department for Children and Families within 24 hours or a report involving vulnerable adults to the Division of Licensing and Protection at the Department of Disabilities, Aging, and Independent Living within 48 hours. This requirement applies except in those instances where particular roles and functions are exempt from reporting under state and federal law. Reports involving children shall contain the information required by 33 V.S.A. §4914. Reports involving vulnerable adults shall contain the information required by 33 V.S.A. §6904. The Contractor will ensure that its agents or employees receive training on the reporting of abuse or neglect to children and abuse, neglect or exploitation of vulnerable adults.

10. **Intellectual Property/Work Product Ownership.** All data, technical information, materials first gathered, originated, developed, prepared, or obtained as a condition of this agreement and used in the performance of this agreement - including, but not limited to all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and printouts, notes and memoranda, written procedures and documents, which are prepared for or obtained specifically for this agreement - or are a result of the services required under this grant - shall be considered "work for hire" and remain the property of the State of Vermont, regardless of the state of completion - unless otherwise specified in this agreement. Such items shall be delivered to the State of Vermont upon 30 days notice by the State. With respect to software computer programs and / or source codes first developed for the State, all the work shall be considered "work for hire," i.e., the State, not the Contractor or subcontractor, shall have full and complete ownership of all software computer programs, documentation and/or source codes developed.

The Contractor shall not sell or copyright a work product or item produced under this agreement without explicit permission from the State.

If the Contractor is operating a system or application on behalf of the State of Vermont, then the Contractor shall not make information entered into the system or application available for uses by any other party than the State of Vermont, without prior authorization by the State. Nothing herein shall entitle the State to pre-existing Contractor's materials.

11. **Security and Data Transfers.** The State shall work with the Contractor to ensure compliance with all applicable State and Agency of Human Services' policies and standards, especially those related to privacy and security. The State will advise the Contractor of any new policies, procedures, or protocols developed during the term of this agreement as they are issued and will work with the Contractor to implement any required.

The Contractor will ensure the physical and data security associated with computer equipment - including desktops, notebooks, and other portable devices - used in connection with this agreement. The Contractor will also assure that any media or mechanism used to store or transfer data to or from the State includes industry standard security mechanisms such as continually up-to-date malware protection and encryption. The Contractor will make every reasonable effort to ensure media or data files transferred to the State are virus and spyware free. At the conclusion of this agreement and after successful delivery of the data to the State, the Contractor shall securely delete data (including archival backups) from the Contractor's equipment that contains individually identifiable records, in accordance with standards adopted by the Agency of Human Services.

12. **Computing and Communication:** The Contractor shall select, in consultation with the Agency of Human Services' Information Technology unit, one of the approved methods for secure access to the State's systems and data, if required. Approved methods are based on the type of work performed by the Contractor as part of this agreement. Options include, but are not limited to:

1. Contractor's provision of certified computing equipment, peripherals and mobile devices, on a separate Contractor's network with separate internet access. The Agency of Human Services' accounts may or may not be provided.
2. State supplied and managed equipment and accounts to access state applications and data, including State issued active directory accounts and application specific accounts, which follow the National Institutes of Standards and Technology (NIST) security and the Health Insurance Portability & Accountability Act (HIPAA) standards.

The State will not supply e-mail accounts to the Contractor.

13. **Lobbying.** No federal funds under this agreement may be used to influence or attempt to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendments other than federal appropriated funds.
14. **Non-discrimination.** The Contractor will prohibit discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under Title IX of the Education Amendments of 1972, or on the basis of race, color or national origin under Title VI of the Civil Rights Act of 1964. No person shall on the grounds of sex (including, in the case of a woman, on the grounds that the woman is pregnant) or on the grounds of religion, be excluded from participation in, be denied the benefits of, or be subjected to discrimination, to include sexual harassment, under any program or activity supported by state and/or federal funds.

The Contractor will also not refuse, withhold from or deny to any person the benefit of services, facilities, goods, privileges, advantages, or benefits of public accommodation on the basis of disability, race, creed, color, national origin, marital status, sex, sexual orientation or gender identity under Title 9 V.S.A. Chapter 139.

15. **Environmental Tobacco Smoke.** Public Law 103-227, also known as the Pro-children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, child care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds.

The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities where Women, Infants, & Children (WIC) coupons are redeemed.

Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

Contractors are prohibited from promoting the use of tobacco products for all clients. Facilities supported by state and federal funds are prohibited from making tobacco products available to minors.

**APPENDIX 1:
TASK ORDER #:**

Task Title:	
Contractor:	
Contract #:	
Dates of Service:	
Maximum Budget:	

1. **Scope of Work** (Specify the Task and Deliverable for this work)

2. **Deliverables**

3. **Payment Provisions** (Please provide the maximum cost of work and the calculation of costs)

**Ad hoc expenses must be accurately reflected on invoices. The Contractor shall identify under which task the ad hoc work was completed and the actual incurred expenses for such work. The Contractor shall invoice the State up to the sum requested on approved Task Order forms.

Covisint Contact		
Approval Signature		Date
Blueprint Executive Director:	Craig Jones	
Approval Signature		Date
DVHA Contract Administrator	Natalie Elvidge	
Approval Signature		Date

Comments: _____

APPENDIX 2:
SPRINT ATTESTATION FORM



Department of Vermont Health Access
312 Hurricane Lane, Suite 201
Williston, VT 05495
hcr.vermont.gov
[phone] 802-879-5988



Smart choices. Powerful tools.

Attestation Form for DVHA/ Blueprint/ HIT Sprints or Demonstrations

This form is used to demonstrate that accurate and reliable data is available to and displayed in Covisint DocSite reports at _____ (name of practice). It marks the end of a DVHA/ Blueprint HIT Sprint or Demonstration, but also recognizes that ongoing maintenance will be required by the State, its HIT partners (Covisint DocSite and VITL), and the Practice named above to ensure the continued accuracy and reliability of data in reports. The processes and activities involved in the Sprint or Demonstration have included: project management and facilitation by DVHA/ Blueprint; gathering of team members from the Practice, local provider community, DVHA/ Blueprint, Covisint DocSite, VITL, and EHR vendors; data gathering and analysis; problem identification and resolution; and successful report generation.

Attestation: I hereby attest that accurate and reliable data is available to and displayed in Covisint DocSite reports at _____ (name of practice), as follows:

- () Accurate and reliable **demographic data** is available to and displayed in Covisint DocSite reports
- () Accurate and reliable **clinical data** is available to and displayed in Covisint DocSite reports
- Lead Clinician Name: _____
- Lead Clinician Signature: _____
- Comments: _____

DVHA/ Blueprint Acceptance of Attestation: I hereby accept this attestation on behalf of the State of Vermont:

DVHA/ Blueprint Name: _____

DVHA/ Blueprint Signature: _____

Comments/ Any Follow-Up or Next Steps:

APPENDIX 3:
FINANCIAL REPORTING FORM

Department of Vermont Health Access Financial Report Form												
(Report Date)												
Covisint												
Contract Number: #23945												
Reporting Period: July 1, 2014-June 30, 2015												
Contractor's Contact Person												
Contractor's Email Address												
TOTAL GRANT BUDGET												
Task 1: Completion of Outstanding Data Remediation Sprint Work	\$	20,000.00										
Task 2: User Licensing	\$	121,992.00										
Task 3: Hosting*	\$	168,000.00										
Task 4: ProviderLink	\$	57,000.00										
Task 5: Operations Support*	\$	245,004.00										
Task 6: Onboarding of New Sites	\$	240,000.00										
Task 7: Ad Hoc Work	\$	400,000.00										
TOTAL GRANT AMOUNT \$ 1,275,996.00												
SIGNATURE OF AUTHORIZING OFFICIAL:												
Travel:												
TOTAL GRANT AMOUNT \$ 1,275,996.00												
SIGNATURE OF AUTHORIZING OFFICIAL:												

Please Note: Only certain white cells are unlocked for editing, please enter the funding amount on the same line as the specific subcategory; the highlighted main categories will autofill.
For categories with no listed subcategories, please enter a title in the space provided for each subcategory being billed

Department of Vermont Health Access Financial Report Form												
(Report Date)												
Covisint												
Contract Number: #23945												
Reporting Period: July 1, 2015-August 31, 2015												
Contractor's Contact Person:												
Contractor's Email Address												
TOTAL GRANT BUDGET												
Task 8: Hosting and User Account Support Services	\$	14,166.00	\$	-	\$	-	\$	-	\$	-	\$	14,166.00
Task 9: DocSite Migration Services	\$	75,000.00	\$	-	\$	-	\$	-	\$	-	\$	75,000.00
\$37,500 on a time and materials basis at a rate of \$155 per hour												
\$37,500 for Task Order #8 upon State acceptance of all deliverables via a signed Deliverable Acceptance form												
TOTAL AMOUNT \$ 89,166.00												
SIGNATURE OF AUTHORIZING OFFICIAL:												

Please Note: Only certain white cells are unlocked for editing, please enter the funding amount on the same line as the specific subcategory; the highlighted main categories will autofill.
For categories with no listed subcategories, please enter a title in the space provided for each subcategory being billed

**APPENDIX 4:
DEPARTMENT OF VERMONT HEALTH ACCESS
REQUEST FOR APPROVAL TO SUBCONTRACT**

Date of Request: _____

Original Grantee Name:	_____	Grantee #:	_____
Address:	_____		
Phone Number:	_____		
Contact Person:	_____		
Agreement #:	_____	Signature:	_____

Subcontractor Name: _____

Address: _____

Phone Number: _____

Contact Person: _____

Scope of
Subcontracted Services: _____

Is any portion of the work being outsourced outside of the United States? **YES** **NO**
(Note to Business Office: If Yes, do not proceed further with approval until reviewed with Finance & Mgmt)

Dollar Amount of
Subcontracted Services: \$ _____

Date Range for Subcontracted
Services: Start: _____ End: _____

DVHA Program Manager:	_____	Signature:	_____
Phone Number:	_____		

Business Office Review

Comments: _____

Approval: _____ **Title:** _____ **Date:** _____

Required: Contractor cannot subcontract until they receive this signed approval from the State of Vermont.

Language to be included from State of Vermont Bulletin 3.5 in all subcontracting agreements:

Fair Employment Practices and Americans with Disabilities Act: Party agrees to comply with the requirement of Title 21V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement. Party further agrees to include this provision in all subcontracts.

Set Off: The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

Taxes Due to the State:

- a. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
- b. Party certifies under the pains and penalties of perjury that, as of the date the Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- c. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.

Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

Child Support: (Applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date the Agreement is signed, he/she:

- a. is not under any obligation to pay child support; or
- b. is under such an obligation and is in good standing with respect to that obligation; or
- c. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

Sub-Agreements: Party shall not assign, subcontract or subgrant the performance of his Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.

Notwithstanding the foregoing, the State agrees that the Party may assign this agreement, including all of the Party's rights and obligations hereunder, to any successor in interest to the Party arising out of the sale of or reorganization of the Party.

APPENDIX 5:
DELIVERABLE ACCEPTANCE

Task #
Deliverable#
Submission Date:

Description:

Approver: Blueprint Executive Director and/or Assistant Director:

Reviewer(s): Business Office Representative:

Acceptance of Deliverable	Comments
<input type="checkbox"/> Approved	
<input type="checkbox"/> Rejected	

<hr/>	
APPROVER, NAME	DATE
<hr/>	
APPROVER, SIGNATURE	DATE